

SUMMARY SHEET

I. Description of Item:

RESOLUTION TO APPROVE AN AGREEMENT TO RECOUP THE COST OF PROVIDING IMPROVEMENTS, FACILITIES AND SERVICE TO MEMPHIS VOLUNTEERS OF AMERICA ELDERLY HOUSING, INC. (d/b/a "CASA GRACE"), a Tennessee not-for-profit corporation, AS REQUIRED BY APPLICABLE TAX EXEMPTION STATUTE, Tenn. Code Ann. §67-5-207, et seq., AT AN AMOUNT OF FIVE DOLLARS (\$5) PER UNIT PER MONTH. SPONSORED BY COMMISSIONER JAMES M. HARVEY

II. Source and Amount of Funding:

Recoupment of Costs Agreement will reimburse Shelby County for cost of providing improvements, facilities and services to the housing development concurrent with the State Board of Equalization ("SBOE") approval of tax exempt status, which is conditioned upon Memphis Volunteers of America Elderly Housing, Inc. providing permanent housing to low income elderly, handicap and homeless residents. No funds will be expended by Shelby County.

III. Contract Items:

Tenn. Code Ann. §67-5-207(a)(2) requires any qualified project that receives a tax exemption to pay any local government for improvements, facilities and services rendered. Governments are limited to charging no more than the actual costs of providing the improvements, facilities and services. The project must be exempt from federal taxes under the Internal Revenue Code, and must provide housing under federal HUD, HCD, McKinney-Vento Homeless Acts, HOME Investment Partnerships Program, or the state-funded Housing Opportunities (HOUSE) Program. The SBOE staff deemed the initial cost determination to be solely a local matter consistent with the statute.

IV. Additional Information Relevant to approval of this item:

Previously, the City of Memphis and Shelby County, by inter-government agreement, charged this type housing project a total fee of ten dollars (\$10) per unit per month divided either equally or 60/40 to the City and County. The City of Memphis delegated its authority to enter into these agreements to the City's HEHFB by Item 57, Resolution on December 4, 2007. The City also unilaterally changed the methodology and rate of cost to 25% of the amount that the ad valorem realty taxes would have been.

The County Commissioners clarified its County-only recoupment of services policy by Resolution dated March 16, 2009 at five dollars (\$5) per month per unit. This rate is consistent with the approval of a project on October 6, 2008. **This going forward rate is applicable to this and similar projects.** Projects must qualify and remain exempt-eligible by complying with state and federal discrimination laws, or may be revoked under T.C.A. §67-5-212.

ITEM # _____

PREPARED BY: THOMAS WILLIAMS

COMMISSIONER _____

APPROVED BY: THOMAS WILLIAMS

RESOLUTION TO APPROVE AN AGREEMENT TO RECOUP THE COST OF PROVIDING IMPROVEMENTS, FACILITIES AND SERVICE TO MEMPHIS VOLUNTEERS OF AMERICA ELDERLY HOUSING, INC. (d/b/a "CASA GRACE"), a Tennessee not-for-profit corporation, AS REQUIRED BY APPLICABLE TAX EXEMPTION STATUTE, Tenn. Code Ann. §67-5-207, et seq., AT AN AMOUNT OF FIVE DOLLARS (\$5) PER UNIT PER MONTH

SPONSORED BY COMMISSIONER JAMES M. HARVEY

WHEREAS, T.C.A. §67-5-207 states that property of Tennessee not-for-profit corporations either financed under Section 202 of the National Housing Act of 1959, or McKinney-Vento Homeless Assistance Act, or funded under the HOME Investment Partnership Program and used for housing for low income elderly, handicapped, or homeless persons may be exempted from real property taxes, as long as such property complies with the provisions of said Section; and

WHEREAS, T.C.A. §67-5-207(a)(2) provides for recoupment of the cost of providing improvements, facilities and essential services in lieu of real property taxes from these housing developments that are granted an exemption under this Section by the State of Tennessee Board of Equalization, in amounts not to exceed the estimated costs incurred by municipalities or counties to provide the improvements, facilities and/or services to the exempt property; and

WHEREAS, Memphis Volunteers of America Elderly Housing, Inc. is a Tennessee not-for-profit corporation owning real property located at 3815 Austin Peay Hwy, Memphis, Shelby County, Tennessee, operating as **Casa Grace** (the "Property"), and has applied to the State Board of Equalization for an exemption from real property taxes for the Property, and said exemption is conditioned upon certain conditions, including filing of a prior agreement for payment in lieu of real property taxes to the County; and

WHEREAS, the Board of Commissioners adopted a Resolution on March 16, 2009 reaffirming its past practice and clarifying its going forward policy to charge each low income housing project under T.C.A. §67-5-207 a cost of five dollars (\$5) per unit per month to recoup its costs for improvement, facilities and services provided to such projects.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF SHELBY, TENNESSEE, that:

1. The Agreement to Recoup the Cost of Providing Improvements, Facilities and Services to Memphis Volunteers of America Elderly Housing, Inc. ("**Casa Grace**") is hereby approved at a rate of five dollars (\$5) per unit per month. (attached as "Exhibit A")

2. Beginning with the effective date of the real property exemption for the Property granted by the State Board of Equalization, Memphis Volunteers of America Elderly Housing, Inc. shall pay to the County taxing authority for each calendar year (and pro rata for any part of a calendar year for which the tax exemption is in effect) an amount equaling the estimated costs incurred by the County to provide improvements, facilities and/or services to the Property, equal to Five (\$5) Dollars per unit per month as of the effective date of this agreement in lieu of real property taxes.

3. Within thirty (30) days of the granting of the tax exemption, Memphis Volunteers of America Elderly Housing, Inc. shall pay to the County all outstanding real property taxes on the Property for periods prior to the date of the exemption, if any.

4. Subject to Paragraph 5 below, the recoupment of costs required by this agreement are to be made on or before February 28th of each year. Any payments in lieu of tax not made when due shall thereafter bear interest at highest rate allowable under applicable law.

5. The recoupment of costs provided for herein shall continue to be due and payable in the amounts specified herein until the date on which the Property is no longer eligible for real property tax exemption under T.C.A. §67-5-207.

6. The parties to this Agreement acknowledge that the County's costs to provide improvements, facilities and/or services to the Property may become greater than the amount of the recoupment of costs made pursuant to this Agreement, and that such costs may increase substantially during the time the Property is entitled to exemption from real property taxes. In consideration of the agreement by the County to accept these payments in lieu of real property tax, and in order to lessen the burden on the County of providing improvements, facilities or services to the Property, then Memphis Volunteers of America Elderly Housing, Inc. shall cooperate fully with the County to re-negotiate the terms of this agreement every three (3) years from the date of this agreement.

7. The parties agree that the recoupment of costs provided for herein are entirely separate from, and in addition to, any payments that may be required for garbage fees, sewer fees or other similar fees that may be imposed on all residents of the County in the future.

8. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

9. **BE IT FURTHER RESOLVED**, That the County Mayor is hereby authorized to execute all documents necessary to rescind any prior approval of an Agreement to recoup the cost of providing improvements, facilities and services for Memphis Volunteers of America Elderly Housing, Inc. at 3815 Austin Peay Hwy, Memphis, Tennessee, and the Mayor is further authorized to enter an Agreement for the same purpose at a cost recoupment rate of five dollars (\$5) per unit per month. Said Agreement is attached hereto as "Exhibit A".

A C Wharton, Jr., Shelby County Mayor

Date:_____

ATTEST:_____
Clerk of County Commission

ADOPTED:_____

**EXHIBTS -- LISTING OF RELEVANT DOCUMENTS ATTACHED HERETO for
RESOLUTION**

EXHIBT A Recoupment Agreement between Memphis Volunteers of America Elderly Housing, Inc. & Shelby County, Tennessee

EXHIBT B Collective Exhibit, including:

1. Narrative Information for Application
2. HUD 202 Agreement
3. Warranty Deed No 07149311
4. Listing of Directors--Memphis Volunteers of America Elderly Housing, Inc
5. State Board of Equalization Exemption Application
6. Corporate By-Laws
7. Articles of Incorporation of Applicant for Recoupment Agreement
8. Notification of 501(c)(3) status from the Internal Revenue Service
9. Photo's of Housing Development

EXHIBIT C Certificate Of Occupancy